

CHAPTER 14 STREET AND ALLEY CLOSING

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1400 APPLICATION PROCEDURE

- 1400.1 Applications for street and alley closing shall be filed with the Department of Public Works, Office of the Surveyor, 614 H Street, N.W., Room 605, Washington, D.C. 20001.
- 1400.2 The application, and the statement required by §1400.4(d), shall be on forms provided by the Director.
- 1400.3 The application shall be signed by the applicant or by an agent of the applicant; Provided, that when the application shall require a public hearing pursuant to the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201, D.C. Code §7-411 *et seq.*) (hereinafter referred to as the "Act") and this chapter, the agent shall disclose the true identity of the applicant.
- 1400.4 The application shall be accompanied by the following:
- (a) A letter which describes in detail the purpose and nature of the street and alley closing;
 - (b) A suitable sketch of the proposed closing;
 - (c) The appropriate filing fee;
 - (d) A listing of all properties (land and buildings) associated with the proposed closing;
 - (e) A listing of the name and location of each retail tenant that will be displaced because of the demolition, substantial rehabilitation, or discontinuance of an existing building that is associated with the closing;

- (f) Six (6) sets of the site development plan meeting the requirements of §§1400.7 and 1400.8 for all applications, except those made by the District of Columbia Department of Housing and Community Development or by the Pennsylvania Avenue Development Corporation, whenever the purpose of the closing is for the assembly of property for subsequent sale or for the development of property for an office building, apartment, condominium, multiple buildings, commercial or industrial use, church, educational facility or enhancement of parking for vehicles; and
 - (g) Six (6) copies of the approved development guidelines relevant to the site of the closing, whenever the application is made by the District of Columbia Department of Housing and Community development or by the Pennsylvania Avenue Development Corporation.
- 1400.5 When the application to close a street or alley satisfies the requirements of §§1403.3, 1403.4, 1403.5, or 1403.6, the application shall be accompanied by a written statement of support which contains the required names and signature.
- 1400.6 The Director, in his or her discretion, may require that the applicant meet with the appropriate Departmental and District officials either before or after comments have been requested or received pursuant to §1401.
- 1400.7 Where a site development plan is required by §1400.4(f), it shall be on an engineers scale at one inch (1 in.) equals one hundred feet (100 ft.) or larger, and the vehicular tracking diagram required by §1400.8(c) shall be to a scale of one inch (1 in.) equals twenty feet (20 ft.) on either the site plan or on a separate sheet, and each site plan set shall be accompanied by a copy of the street grade map or the alley grade sheet that is on file with and obtainable from the Department of Public Works, Public Space Permits and Records Division, Room 616, at 613 G Street, N.W.
- 1400.8 The site development plan shall illustrate the following elements:
 - (a) The Office of the Surveyor's application file number;
 - (b) A key location sketch showing the development in relationship to the square and surrounding streets, with the streets identified;
 - (c) Footprint or outline of each building of the proposed development;
 - (d) The street names;
 - (e) The alley or street or portion thereof proposed to be closed; and the location and dimensions of any dedication or easement proposed, along with a clear statement of the purposes for the easement;
 - (f) The approximate gross floor areas intended for various uses such as retail, office, residential, industrial, and commercial;
 - (g) The points of ingress and egress that vehicles will use for parking or loading purposes;

- (h) The location of off-street parking spaces and their number and size;
- (i) The location and size of loading and unloading facilities such as berths, docks, and platforms;
- (j) Tracking diagram for the maximum size trucks intended to use the loading and unloading facilities;
- (k) Elevation views for each side of any building proposed for the site; and
- (l) A profile drawing of the easement to clearly show the proposed surface grade of the easement and the ceiling level of any building to be constructed over the easement.

AUTHORITY: Unless otherwise noted, the authority for this chapter is §602 of the Street and Alley Closing and Acquisition Procedures Act of 1982, D.C. Law 4-201, D.C. Code §7-411 *et seq.* (1981).

SOURCE: Final Rulemaking published at 31 DCR 560 (February 10, 1984); as amended by Final Rulemaking published at 34 DCR 2695 (April 24, 1987); and by Final Rulemaking published at 36 DCR 5122, 5123 (July 21, 1989).

1401 AGENCY REVIEW

- 1401.1 Prior to submission of the application to the Council, the application shall be reviewed by those agencies and persons listed in this section in the time frame set forth in this section.
- 1401.2 The Director shall assemble the application file and send it to the agencies and persons as follows:
 - (a) The Fire Chief who shall review the application to determine if the closing will have an adverse impact on fire safety and protection;
 - (b) The Director of the Department of Finance and Revenue who shall determine the assessed value of the street or alley to be closed and the assessed value of each lot and each building identified by the applicant or the agent of the applicant as required by §1400.4(d);
 - (c) The Director of the Office of Planning who shall determine whether the proposed closing is in compliance with the District's planning urban design objectives, and who shall coordinate with the Executive Director of the Office of Business and Economic Development as set forth in §1401.2(e);
 - (d) The Director of the Department of Housing and Community Development who shall determine whether the proposed closing will adversely affect the District's housing goals, or redevelopment plans and programs, and who shall coordinate with the Executive Director of the Office of Business and Economic Development as set forth in §1401.2(e);
 - (e) The Executive Director of the Office of Business and Economic Development who, in coordination with the Office of Planning and the Department of Housing and Community Development, shall determine the effect of the

street or alley closing upon any existing retail tenants in buildings associated with the street or alley closing; and

- (f) The public utilities companies who shall determine whether the proposed closing will adversely affect their facilities.

1401.3 The Director shall review the application for the following:

- (a) To determine whether the closing is compatible with the transportation policies, goals, and objectives of the District;
- (b) To determine whether the closing will adversely affect the drainage system or District owned hardware and facilities; and
- (c) To determine whether the closing will have an adverse impact on sewer and water facilities or on solid waste collection.

1401.4 The agencies and persons listed in §1401.2 shall forward their comments to the Director within thirty (30) days of receipt of the application. Failure to provide written comments within the thirty-day (30) period shall result in the Director assuming that the non-responding agency or person has no comments and has no objections to the application.

1401.5 The comments forwarded to the Director shall include any objection to the proposed application and what conditions the applicant must comply with in order for the objection of the agency or person to be removed.

1401.6 An agency or a person submitting comments to the Director pursuant to this section may state that the comment shall only be valid for a specific period of time; Provided, that any comment submitted to the Director shall be valid for a minimum of two (2) years from the date the comment was submitted.

1401.7 The Director shall advise the applicant of the comments received pursuant to this section.

1401.8 The applicant shall either resolve any objections with the appropriate agency or the applicant shall accept, in writing, unconditionally and without reservation, the conditions as set forth in the appropriate comments.

1401.9 If the applicant fails to respond, in writing, to the objections or conditions within ninety (90) days of notification, the application shall be deemed abandoned.

1401.10 If the applicant requests, the Director shall extend the ninety-day (90) time period imposed pursuant to §1401.8 for an additional sixty (60) days.

1401.11 The Director shall forward an application to the Council of the District of Columbia (hereinafter referred to as the "Council") when the condition(s) and the objection(s) of the District agencies shall be resolved by the applicant or when the condition(s) are accepted by the applicant, in writing, unconditionally and without reservation.

- 1401.12 The resolution of the conditions and the objections shall be as follows:
- (a) In writing;
 - (b) Signed by the applicant; and
 - (c) Approved by the Director and the appropriate District agency.
- 1401.13 The Director, in his or her discretion, may forward an application to close a street or alley to the Council for a public hearing if the Director believes that the provisions of this section will be completed prior to the public hearing and if the failure of an expedited consideration by the Council shall cause undue hardship to the applicant or the District.
- 1401.14 Any comments on or conditions to the application that are received by the Director subsequent to the application being forwarded to the Council shall be transmitted to the Council in a timely fashion by the Director.
- 1401.15 The Director shall prepare a plat indicating the closing of the street or alley when all comments have been received (or the time limit specified in §1401.4 has elapsed and all objections resolved pursuant to this section); Except, that the Director shall prepare a plat prior to receiving all comments when the Director forwards the application to the Council pursuant to §1401.13.

SOURCE: Final Rulemaking published at 31 DCR 560, 561 (February 10, 1984); as amended by Final Rulemaking published at 34 DCR 2695, 2596 (April 24, 1987).

1402 REFERRALS TO THE NATIONAL CAPITAL PLANNING COMMISSION, THE HISTORIC PRESERVATION REVIEWBOARD, AND THE AFFECTED ADVISORY NEIGHBORHOOD COMMISSION

- 1402.1 The Director shall refer, for appropriate comments, an application to close any street located on the L'Enfant Street Plan to the Historic Preservation Review Board established pursuant to §4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, D.C. Code, 1981).
- 1402.2 Except as provided in §§1402.3, 1402.4 and 1402.5, the Director shall refer, for appropriate comments, all applications to close a street or alley to the National Capital Planning Commission (hereinafter referred to as "NCPC").
- 1402.3 The application shall not be referred to the NCPC when the application is to close an alley or any part thereof, is accompanied by a written statement, in a format approved by the Director, which is in support of the application and which contains the signature of every owner of property abutting the entire alley to be closed, and when any one of the following conditions is satisfied:
- (a) The width of the alley to be closed is ten feet (10 ft.) or less; or
 - (b) Real property is to be dedicated to the District for any alley to serve a similar purpose as did the alley which is to be closed.

- 1402.4 The application shall not be referred to the NCPC when the application is to close an alley or any part thereof and satisfies the following conditions:
- (a) The application is accompanied by a written statement, in a format approved by the Director, which is in support of the application and which contains the signature of the owners of two-thirds (2/3) or more of the property in the square;
 - (b) The alley is located entirely within the two-thirds (2/3) of the square owned by the individuals who signed the statement pursuant to §1402.4(a); and
 - (c) The persons who signed the statement pursuant to §1402.4(a) propose to develop the entire area of the square which they own.
- 1402.5 The application shall not be referred to the NCPC when the District or the United States applies to close an alley or any part thereof where the District or the United States holds title to all of the property abutting the entire alley.
- 1402.6 The Director shall refer all applications, that were filed with the Office of the Surveyor on or after May 10, 1988, to the Advisory Neighborhood Commission in whose area the street or alley to be closed is located and provide the Council of the District of Columbia with a copy of any comments received from the affected Advisory Neighborhood Commission.

SOURCE: Final Rulemaking published at 31 DCR 560, 563 (February 10, 1984); as amended by Final Rulemaking published at 36 DCR 5122, 5125 (July 21, 1989).

1403 PROCEDURE FOR FORWARDING APPLICATIONS TO THE COUNCIL

- 1403.1 Except as provided in this section, the Director shall forward, after payment of the appropriate fee, all applications to the Council for a public hearing pursuant to the Act.
- 1403.2 In addition to the application, the Director shall forward the following documents and materials to the Council:
- (a) The plat prepared pursuant to §1401.15;
 - (b) The comment received pursuant to §§1401 and 1402;
 - (c) When applicable, any written statement or document submitted by the applicant pursuant to this chapter; and
 - (d) When appropriate, necessary legislation.
- 1403.3 The application shall be forwarded to the Council for consideration without the requirement for a public hearing when the application is to close an alley, or any part thereof and is accompanied by a written statement, in a format approved by the Director, which is in support of the application and which contains the signature of every owner of property in the square.

- 1403.4 The application shall be forwarded to the Council for consideration without the requirement for a public hearing when the application is to close an alley, or any part thereof is accompanied by a written statement, in a format approved by the Director, which is in support of the application and which contains the signature of every owner of property abutting the entire alley to be closed, and when any one of the following conditions is satisfied;
- (a) The width of the alley to be closed is ten feet (10 ft.) or less;
 - (b) The alley is a deadend alley;
 - (c) The alley is an unimproved alley;
 - (d) Real property is to be dedicated to the Director for an alley to serve a similar purpose as did the alley which is to be closed; or
 - (e) An easement is to be granted to the District which will allow real property to be used as an alley that serves a similar purpose as did the alley which is to be closed.
- 1403.5 The application shall be forwarded to the Council for consideration without the requirement of a public hearing when the application is to close a deadend or unimproved street and is accompanied by a written statement, in a format approved by the Director, which is in support of the application and which contains the signature of all of the owners of all of the property on both sides of the block or blocks of the street which abuts the block or blocks to be closed.
- 1403.6 The application shall be forwarded to the Council for consideration without the requirement for a public hearing when the application is to close an alley or any part thereof and when the application satisfies all of the following conditions:
- (a) The application is accompanied by a written statement, in a format approved by the Director, which contains the signature of the owners of two-thirds (2/3) or more of the property, as measured in square footage, in the square;
 - (b) The alley is located entirely within the two-third (2/3) of the square owned by the individuals who signed the statement pursuant to §1403.6(a); and
 - (c) The persons who signed the statement pursuant to §1403.6(a) proposed to develop the entire area of the square which they own.
- 1403.7 The application shall be forwarded to the Council for consideration without the requirement for a public hearing when the District or the United States applies to close an alley or any part thereof where the District or the United States holds title to all of the property abutting the entire alley.
- 1403.8 The applicant shall have the statement required pursuant to §§1403.2, 1403.3, 1403.4, and 1403.5 reviewed by the Department of Finance and Revenue. The Department of Finance and Revenue shall review the statement to ensure that the name of the owner of a particular lot conforms to the records of the Department of Finance and Revenue.

SOURCE: Final Rulemaking published at 31 DCR 560, 564 (February 10, 1984).

1404 REQUIRED NOTICE BY THE APPLICANT PRIOR TO ACTION BY THE COUNCIL

- 1404.1 The applicant shall give written notice of the application to close a street or alley and shall post a notice indicating that an application to close a street or alley is under consideration by the Council in the manner and times specified in this section.
- 1404.2 Except as provided in §1404.3, the applicant shall, at least thirty (30) days, but no more than sixty (60) days, prior to the date of any public hearing conducted to consider the application to close the street or alley, do the following:
- (a) Give or send a written notice of the date, time, and location of the public hearing to every owner of property abutting the entire alley, all or part of which is to be closed or abutting either side of the block or blocks of the street, all or part of which is to be closed; and
 - (b) Post a sign, which indicates the date, time, and location of the public hearing, at each end of the block or blocks or the street proposed to be closed or at each entrance from a street to any alley in the square.
- 1404.3 When §§1403.3, 1403.4, 1403.5 or 1403.6 is satisfied and where the Council has not conducted a public hearing on the proposed street or alley closing where notice pursuant to §1404.2 has been given, the applicant shall, at least fifteen (15) days, but no more than six (6) months, prior to the final consideration by the Council of the proposed legislation to close the street or alley, do the following:
- (a) Give or send a written notice of the intention of the Council to consider the proposed legislation to close the street and alley to every owner of property abutting the alley, all or part of which is to be closed, or abutting either side of the block or blocks of the streets, all or part of which is to be closed; and
 - (b) Post a sign, which indicates the intention of the Council to consider legislation to close the street or alley at each end of the block or blocks of the street proposed to be closed or shall be posted at each entrance from a street to any alley in the square.
- 1404.4 The notice given pursuant to §§1404.2(a) and 1404.3(a) shall be in a matter approved by the Director.
- 1404.5 The signs posted pursuant to §§1404.2 and 1402.3 shall be supplied by the Director; Provided, that where the signs supplied by the Director are lost, misplaced, defaced, torn, stolen or otherwise not legible for public viewing the applicant shall obtain additional signs from the Director when the appropriate sign replacement fee is paid.
- 1404.6 The applicant shall inspect the signs at least once every five (5) days to ensure that the signs are posted for a minimum period of fifteen (15) days.

1404.7 The applicant shall submit a letter to the Council, with a copy to the Director, stating that the requirements of this section have been satisfied and the applicant shall furnish a photograph of the posted signs and proof of the mailing of the notice.

1404.8 The applicant shall remove the signs no later than five (5) days following the final consideration of the Council or the public hearings, whichever occurs first.

SOURCE: Final Rulemaking published at 31 DCR 560, 565 (February 10, 1984).

1405 NOTICE FOLLOWING ACTION BY THE COUNCIL OF THE DISTRICT OF COLUMBIA

1405.1 Except where a written statement has been submitted pursuant to §§1403.3, 1403.4, 1403.5, and 1403.6, the Director shall give or send a written notice to every owner of property abutting the entire alley, all or part of which is to be closed or abutting both sides of the block or blocks of the street, all or part of which is to be closed that the Council has enacted and the Mayor has signed legislation ordering the closing of the street or alley.

1405.2 The notice given pursuant to §1405.1 shall indicate that any written objection by an interested person aggrieved by the closing shall be filed within thirty (30) days of the mailing of the notice and shall state how the person is aggrieved by the closing.

1405.3 An objection filed pursuant to this section shall be filed with the Department of Public Works, Office of the Surveyor, 614 H Street, N.W., Room 605, Washington, D.C. 20001.

1405.4 The Director shall forward all objections received pursuant to this section to the Mayor for action pursuant to §211 of the Act (D.C. Code §7-431 (1981)) when the Director has determined that the person filing the objection is an interested party aggrieved by the closing of the street or alley.

SOURCE: Final Rulemaking published at 31 DCR 560, 567 (February 10, 1984).

1406 RECORDATION OF THE CLOSING OF A STREET OR ALLEY

1406.1 The Director shall record a copy of the law that closes the street or alley and shall record the plat prepared pursuant to this chapter when the following conditions are satisfied:

- (a) The law ordering the closing of the street or alley has become effective;
- (b) Where applicable, the applicant has complied with the conditions or contingencies required by the law ordering the closing of the street or alley;
- (c) Where applicable, the conditions and procedures of §405 of this title and §§210 and 211 the Act (D.C. Code §§7-430 and 7-431 (1981)) have been completed and satisfied; and

(d) The applicable fees and deposits have been paid by the applicant.

- 1406.2 The provisions of §1406.1 shall not be effective for closings by the District of Columbia Department of Housing and Community Development or by the Pennsylvania Avenue Development Corporation until the Department of Public Works has reviewed and approved the final development plans which shall include the information required by §§1400.7 and 1400.8.
- 1406.3 Upon recordation of the plat, the alley or street, or part thereof, as shown on the plat, shall be considered closed and title to the land shall revert to or be vested in fee simple to the owners as shown on the plat.
- 1406.4 Upon recordation of the plat, the right by the public to use the street or alley, or part thereof, which has been closed shall cease unless a temporary continued use is required by the Director, as agreed to by the applicant and the Director.
- 1406.5 Upon the recordation of the plat, the real property encompassing any easement or dedication established or accepted by the law ordering the closing shall thereafter be available for the intended use.
- 1406.6 Upon recordation of the plat, the Director shall send a copy of the plat to the applicant and to the Director of the Department of Finance and Revenue.

SOURCE: Final Rulemaking published at 31 DCR 560, 567 (February 10, 1984); as amended by Final Rulemaking published at 36 DCR 5122, 5124 (July 21, 1989).

1407 REQUIREMENT FOR REFILING OF AN APPLICATION

- 1407.1 If the Council has not acted on the application during the time period set forth in §1401.14 or if the Director has not forwarded the application to the Council during the time period set forth in §1401.14, the applicant may be required to file, pursuant to this chapter, a new application to close a street or alley.
- 1407.2 Except as provided pursuant to §1401.9, an applicant may be required to file, pursuant to this chapter, a new application to close a street or alley when the applicant has failed to respond to the notification of objections or conditions pursuant to §1401.8 within ninety (90) days.

SOURCE: Final Rulemaking published at 31 DCR 560, 568 (February 10, 1984).

1499 DEFINITIONS

- 1499.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Demolition - the total removal of the existing structure.

Discontinuance of an existing building - disallowance of further use of the building, and all services to the building are terminated without necessarily demolishing the building.

Property associated with the street and alley closing - property that is or will be included in a development or developments requiring the closing of the street or alley.

Retail tenant - a nonresidential tenant offering goods or nonprofessional services.

Substantial rehabilitation - the alteration of a building wherein existing tenants would be required to move.

SOURCE: Final Rulemaking published at 34 DCR 2695, 2696a (April 24, 1987).

